US Army Medical Command
Fort Sam Houston, Texas

No FEAR Act Training

Prepared by: Office of Equal Employment Opportunity Prog

No FEAR Act

- Congress enacted the “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002” on May 15, 2002. This Act requires Department of Army (DA) to comply with antidiscrimination and whistleblower protection laws.
- Congress found that Federal agencies cannot operate effectively if those agencies practice or tolerate discrimination.

No FEAR Act Notice

- The Act requires DA to provide notice to all employees, former employees and applicants for employment to inform them of their rights and protections available under Federal antidiscrimination, whistleblower protection, and retaliation laws.

No FEAR Act Environment

Creating a discrimination-free office requires:

- Demonstrated commitment from the agency.
- Integration of EEO policies into the agency's strategic mission.
- Proactive prevention of unlawful discrimination.
- Efficient implementation of policies.
- Management and program accountability.
- Responsiveness and legal compliance.

No FEAR Act Requirements

- The Act requires Federal agencies to:
  - Reimburse the Treasury Judgment Fund for payments made in Federal District court cases involving violations of discrimination and whistleblower laws. *
  - Post information on its public website relating to complaints of discrimination and annually report to Congress.
  - Train and notify employees on their rights and protections under the antidiscrimination and whistleblower laws.

* Treasury's Financial Management Service will send a notice to the agency requesting reimbursement for the payment.

No FEAR Act Requirements

- The No FEAR Act makes it compulsory for federal agencies to provide notification and training to employees on their rights and the remedies to discrimination and retaliation.

Prohibited Personnel Practices

The Act requires that federal employees receive notice of prohibited personnel practices under Federal law. Among them are:

- Discrimination
- Improper influence on employment actions
- Coerce political activity
- Nepotism
- Retaliation for whistleblowing or exercising rights
- Violating veterans' preference
- Violating merit system principles

Antidiscrimination Laws

- DA must not discriminate against employees or applicants with respect to the terms, conditions or privileges of employment on the basis of race, color, religion, sex, national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by Federal statutes.

Complaints of Discrimination

- If you believe that you have been the victim of unlawful discrimination on the basis of race, color, religion, sex, national origin, or disability, you must contact your servicing Equal Employment Opportunity (EEO) Office within 45 calendar days of the alleged discriminatory action or, in the case of a personnel action, within 45 calendar days of the effective date of the action.

Age Discrimination

If you believe that you have been the victim of unlawful discrimination on the basis of age (40 years and over), you must:

- Contact an EEO official within 45 calendar days, or
- Give notice of intent to sue to the Equal Employment Opportunity Commission (EEOC) within 180 days of the alleged discriminatory action.

Remedies

If any Federal employee is successful in proving unlawful discrimination or retaliation, that employee has the right to seek a remedy. The remedies include:

- Reimbursing attorney's fees
- Placing victims in the position they would have occupied if the discrimination hadn't occurred
- Paying compensatory damages
- Reimbursing any benefits that were lost
- Preventing further discrimination by stopping the specific discriminatory practices involved

Other Avenues of Redress

If you allege discrimination based on marital status or political affiliation, you may file a written complaint with or use the following procedures:

- US Office of Special Counsel (OSC)
- DA Administrative Grievance Procedure
- Negotiated Grievance Procedure

Whistleblower Protection

- A DA manager or supervisor with authority to take, direct others to take, recommend, or approve any personnel action must not misuse that authority to take, fail to take, or threaten to take or fail to take a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to be evidence of violations of law, rule, or regulation; gross mismanagement; gross waste of funds; an abuse of authority; or a substantial and specific danger to public health or safety.

Whistleblower Protection

- The only exception is disclosure if such information is specifically prohibited by law and such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.
- Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 USC 2302(b)(8).

Whistleblower Protection

Retaliation against an employee or applicant for employment making a protected disclosure is prohibited. If you believe that you have been the victim of whistleblower retaliation, you may:

- Report it to the DA IG (Office of Inspector General) Hotline at 1-800-488-8244;
- File a written complaint with the US Office of Special Counsel (OSC) at 1730 M Street NW., Suite 218, Washington DC 20036-4505; or
- File a complaint online through the OSC Website at www.osc.gov.

Whistleblower Protection

- DA management officials must not retaliate against employees or applicants for employment for exercising their rights under any of the Federal antidiscrimination or whistleblower protection laws.

Disciplinary Actions

- Under existing laws, DA retains the right to discipline a manager or supervisor who has engaged in unlawful discriminatory or retaliatory conduct.
- If OSC has initiated an investigation under

  5 USC, agencies must seek approval from the Special Counsel to discipline employees for engaging in prohibited retaliation.

Existing Rights Unchanged

- Pursuant to section 205 of the No FEAR Act, neither the Act nor this notice creates, expands, or reduces any rights otherwise available to any **employee, former employee, or applicant for employment** under the laws of the United States.

Existing Rights Unchanged

- Nothing in the No FEAR Act alters existing laws or permits DA to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a **Federal employee who has been accused of discrimination**.

Contacts

- Your servicing EEO Office
- Civilian Personnel Liaison
- Servicing Civilian Personnel Advisory Center
- MEDCOM Office of EEO Programs

Test Materials

- Supervisors may obtain the No FEAR test, test answers, training roster format, and training certificate by contacting the Headquarters MEDCOM Office of EEO Programs at DSN 471-8170 or commercial (210) 221-8170.